

HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
SEATTLE DIVISION

KEITH HUNTER, an individual, and
ELAINE HUNTER, an individual,

Plaintiffs,

v.

BANK OF AMERICA, N.A.; NATIONSTAR
MORTGAGE LLC, a Delaware limited
liability company; HSBAC BANK USA,
N.A., as Trustee for Merrill Lynch
Mortgage Investors, Inc., Mortgage Pass-
Through Certificates, MANA Series 2007-
OAR2; QUALITY LOAN SERVICE
CORPORATION OF WASHINGTON, a
corporation,

Defendants.

No. 2:16-cv-01718-RAJ

MOTION TO SEAL

Note on Motion Calendar:
June 5, 2020

I. INTRODUCTION AND RELIEF REQUESTED

The parties entered into a stipulated protective order regarding the filing of confidential material. See Dkt. No. 70 ("Order"). This Order applies to documents that Plaintiffs are filing in support of their motion for partial summary judgment. The documents have been designated confidential by Defendant Bank of America, N.A. ("BANA").

Plaintiffs are objecting to the sealing of any information in the materials at issue but filing this motion pursuant to the Order. In the event BANA agrees to either remove the designation or redact the information at issue, this motion will be withdrawn.

II. PERTINENT FACTS

On May 24, 2019, the Court entered a stipulated protective order that addresses the treatment of confidential information in this case. Dkt. No. 70. The order allows a challenge to a confidential designation at any time. *Id.* at ¶6.1. Before filing confidential material, the filing party must confer with the designating party and determine whether the designation will be removed, or the document can be redacted, or a motion to seal is warranted. *Id.* at ¶4.3.

On May 13, 2020, Plaintiffs' counsel met and conferred with counsel for BANA by telephone. Declaration of Brendan W. Donckers at ¶2. In the communication, Plaintiffs counsel challenged BANA's confidentiality designation to the information at issue and requested that BANA either remove the designation or, if it intended to maintain it, propose a redacted version of the documents. *Id.* Counsel for BANA stated that he would discuss the issue with his client and respond within a day or so. *Id.*

On the morning of May 14, 2020, Plaintiffs' counsel emailed counsel for BANA and attached examples of redacted versions of the information at issue. Donckers decl. at ¶3. Plaintiffs' counsel proposed that BANA accept this measure to avoid having to file a motion to seal. *Id.* As of the time of this filing, Plaintiffs' counsel has not heard back from BANA's counsel. *Id.*

Plaintiffs do not agree with and object to the sweeping confidential designation of information that was produced by BANA. Plaintiffs also do not agree with and object to any information being sealed in this case. Plaintiffs believe the redaction of personal identifying information and/or sensitive financial and account information is all that is necessary to balance the concerns of public access to court records and the disclosure of otherwise sensitive and confidential information.

Plaintiffs will withdraw this motion upon confirmation from BANA that a redaction of the information at issue – instead of sealing it – is satisfactory.

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III. LAW

This motion is being filed pursuant to the stipulated protective order on file in this case. See Dkt. No. 70 at ¶4.3. Local Civil Rule 5(g) also governs motions to seal in this Court.

As discussed above, Plaintiffs do not agree with and object to the sealing of any information in this case. Redacting any information that is private and/or confidential is an appropriate measure to balance the strong presumption of public access to the Court's files with the disclosure of sensitive and confidential information. See LCR 5(g).

It is Plaintiffs' expectation that this motion will be withdrawn before a response is due. In the event BANA responds in support of this motion, Plaintiffs anticipate filing a reply in opposition.

DATED: May 14, 2020.

BRESKIN JOHNSON TOWNSEND, PLLC

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